IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.427 OF 2003

IN

SUMMARY SUIT NO.824 OF 2003

Shri.Chandrakant Kasturbhai Chauhan ...Plaintiff.

vs.

1. M/s.Shri Sai Engineering Works & another. ...Defendants.

Mr.J.V.Parmar, for Plaintiff.

Mr.N.V.Gangal, for Defendants.

CORAM: D.K.DESHMUKH,J.

DATED: 9th January, 2007.

P.C.:-

1 The defendants are disputing the receipt of the goods. The plaintiff does not have a single document to show that the defendants have received the goods and that they have acknowledged the fact that they have received the goods. The documents that have been relied on to prove that the defendants have received the goods are the lorry receipts issued by the transporter. When the transporter delivered the

goods to the consignee the transporter must have obtained acknowledgment from the consignee but that acknowledgment is not produced before the Court. There is no averment made in the plaint that the defendants have signed the lorry receipts acknowledging that they have received the goods.

2. Thus, it is clear that the defendants have substantial defence to offer. Therefore, the suit cannot be decreed in the summary jurisdiction. The defendants are entitled to leave to defend the suit unconditionally. The summons for judgment is, therefore, disposed of. The defendants are granted unconditional leave to defend the suit. Written statement to be filed within Four weeks from today.